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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Amendment of the Commission's Rules
Concerning Maritime Communications

Petition for Rule Making filed by
Regionet Wireless License, LLC

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PR Docket No. 92-257

RM-9664

To: The Commission

OPPOSITION TO PETITION FOR RECONSIDERATION

Mobex Communications, Inc. (Mobex), by its attorney, pursuant to Section 1.429(f) of the Commission's Rules, 47 C.F.R. §1.429(f), respectfully files its Opposition to the Petition for Reconsideration filed in the above captioned matter on August 26, 2002 by Warren C. Havens or via Telesaurus Holdings GB, LLC (Havens). In support of its position, Mobex shows the following.

Anything But AMTS

Havens has come forth with yet another suggestion that the Commission reallocate the Automated Maritime Telecommunications System frequency band to some other use — *any* other use. On February 6, 2001, Havens filed comments in the above captioned proceeding in which he proposed that the band 217-225 MHz be reallocated, along with other frequency bands, to a National Infrastructure Radio Service (NIRS). One month later, on March 9, 2001, in comments filed in ET Docket No. 00-221, Havens contradictorily proposed reallocating the band 216-225 MHz to a National Environmental Wireless Service (NEWS). Now, without explaining why he does not protest the Commission's rejection of his NIRS scheme in the instant proceeding, Havens

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has departed from both of his earlier schemes and presented the Commission with yet another elaborate diversion.

Havens presented an inchoate outline of a plan in which he would reallocate the AMTS spectrum, in areas where it has not yet been assigned, to an Advanced Technology Land Infrastructure and Safety Service (ATLIS). Havens's latest, only partly fledged, idea is not only contradictory to his NIRS proposal and his NEWS brainstorm, but it is clearly beyond the scope of the above captioned proceeding and cannot be considered therein. The Commission should shrug off ATLIS as readily as Havens tossed off NIRS and NEWS.

You Can't Reconsider What You Haven't Had a Chance to Consider

Rather obviously, the purpose of re-consideration is to give further consideration to a subject which had initially been considered. Havens's latest idea is alien to the NIRS scheme which he requested that the Commission consider in the above captioned proceeding. The Commission correctly held that Havens's NIRS suggestion was beyond the scope of the above captioned proceeding, Second Memorandum Opinion and Order and Fifth Report and Order in the above captioned matter (FCC 02-74 Released April 8, 2002) (MO&O), at para. 26. Havens gave the Commission no earlier opportunity to consider ATLIS. The Commission could not now reconsider what Havens had given it no opportunity to consider in the first instance.

At paragraph 26 of its MO&O, the Commission stated a multitude of reasons for rejecting Havens's NIRS plan. Specifically, the Commission was concerned that broadcast television would

be placed at greater risk by a different use of the AMTS band; that the Low Power Radio Service could suffer a negative impact; that the reallocation of the 218-219 MHz band would be disruptive in light of recent rule changes; that reallocation of the 220-222 MHz band could severely disrupt incumbent operations, including numerous public safety entities; and that the band 222-225 MHz was in use by hundreds of Amateur repeaters nationwide. Havens's petition for reconsideration failed even to attempt to dispute any of those Commission conclusions or explain how ATLIS would shoulder the burden of overcoming the Commission's objections to NIRS.

Because Havens's latest offering is beyond the scope of the instant proceeding, and because Havens's ATLIS plan was not sufficiently formed to be ripe for either consideration or reconsideration, Mobex will not consume an inordinate amount of the Commission's time debating the merits of ATLIS, if any. However, four points stand out.

First, Havens failed to demonstrate that there was any need for reallocation of the AMTS spectrum to Public Safety and industrial use. The Commission has recently allocated some 50 MHz of spectrum for Public Safety which has not yet been put to any use. In a concurrent proceeding, the Commission is considering allocating more additional spectrum to Public Safety at 800 MHz than could be gained from reallocating the AMTS band.

Second, Havens failed to demonstrate that Public Safety and industrial users could not obtain adequate service from geographic area AMTS operators. This is not to say that Public Safety could not make good use of additional spectrum in the major urban areas, but, as Havens

acknowledged, the AMTS spectrum is already assigned and it is in AMTS operation in the major urban areas and would be unavailable for reallocation to Public Safety or to any other purpose. Among many other Top 100 urban areas, Mobex is authorized for AMTS operation in 15 of the Top 16 urban areas, all of which are major international maritime harbors. Havens's ATLIS plan would provide Public Safety with AMTS spectrum only where it is needed least. In short, Havens failed to demonstrate that his ATLIS plan is needed or that it could possibly fulfill the objectives which he stated.

Third, the ATLIS scheme would depend financially on a tax which the Commission does not have the authority to impose, see, Havens's petition at page 21. Since Havens failed to demonstrate how ATLIS could function without a tax of \$1.3 billion per year, which would require new legislation, the ATLIS plan is beyond the Commission's authority to consider.

Fourth, it cannot escape notice that, like each earlier Havens opus, Haven's latest plan just happens to focus on spectrum in which he holds an interest. The primary beneficiary of Havens's latest plan, like his earlier plans, would be Havens, with no discernable benefit to the public which the public could not receive without his plan.

The Status of Mobex Stations Is Irrelevant

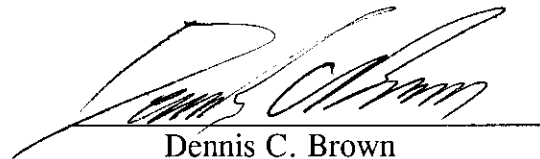
The status of Mobex incumbent stations was not at issue in the MO&O. The Commission should disregard Havens's misplaced efforts to malign Mobex in his petition. In an abundance of caution, however, Mobex will state that it certainly does provide substantial AMTS service.

Mobex disagrees totally with Havens's unsupported allegations at page 2 of his petition of invalidity of many outstanding AMTS licenses. Further, Mobex disagrees totally with Havens's unsupported allegations at page 17 of his petition that most AMTS licenses issued to date were not placed in operation by the construction deadline, that most AMTS licenses issued to date did not meet the coverage requirement, and that most AMTS licenses issued to date are terminated pursuant to certain Commission rules.

Conclusion

For all the foregoing reasons, Mobex respectfully requests that the Commission dismiss or deny Havens's petition for reconsideration in the above captioned matter.

Respectfully submitted,
MOBEX COMMUNICATIONS, INC.



Dennis C. Brown

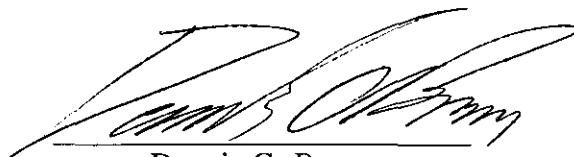
126/B North Bedford Street
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703/525-9630

Dated: September 13, 2002

CERTIFICATE OF SERVICE

I hereby certify that on this thirteenth day of September, 2002, I served a copy on the following person by placing a copy in the United States Mail, first class postage prepaid:

Warren C. Havens
2509 Stuart Street
Berkeley, California 94705

A handwritten signature in black ink, appearing to read "Dennis C. Brown", written over a horizontal line.

Dennis C. Brown